

Calendar No. 221

110TH CONGRESS
1ST SESSION**S. 1696****[Report No. 110–91]**

Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2007

Mrs. FEINSTEIN, from the Committee on Appropriations, reported the following original bill; which was read twice and placed on the calendar

A BILL

Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for the
5 Department of the Interior, environment, and related
6 agencies for the fiscal year ending September 30, 2008,
7 and for other purposes, namely:

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), as amended, the Education Amendments of 1978 (25 U.S.C. 2001–2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), as amended, \$2,046,341,000, to remain available until September 30, 2009 except as otherwise provided herein, of which not to exceed \$77,164,000 shall be for welfare assistance payments: *Provided*, That in cases of designated Federal disasters, the Secretary may exceed such cap, from the amounts provided herein, to provide for disaster relief to Indian communities affected by the disaster; notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, not to exceed \$149,628,000 shall be available for payments for contract support costs associated with ongoing contracts, grants, compacts, or annual funding agreements entered into with the Bureau prior to or during fiscal year 2008, as authorized by such Act, except that federally recognized tribes and tribal organizations may use their tribal priority allocations for unmet contract

1 support costs of ongoing contracts, grants, or compacts,
2 or annual funding agreements and for unmet welfare as-
3 sistance costs; of which not to exceed \$476,500,000 for
4 school operations costs of Bureau-funded schools and
5 other education programs shall become available on July
6 1, 2008, and shall remain available until September 30,
7 2009; and of which not to exceed \$55,817,000 shall re-
8 main available until expended for housing improvement,
9 road maintenance, attorney fees, litigation support, the In-
10 dian Self-Determination Fund, land records improvement,
11 and the Navajo-Hopi Settlement Program: *Provided fur-*
12 *ther*, That notwithstanding any other provision of law, in-
13 cluding but not limited to the Indian Self-Determination
14 Act of 1975, as amended, and 25 U.S.C. 2008, not to ex-
15 ceed \$44,060,000 within and only from such amounts
16 made available for school operations shall be available for
17 administrative cost grants associated with ongoing grants
18 entered into with the Bureau prior to or during fiscal year
19 2008 for the operation of Bureau-funded schools, and up
20 to \$500,000 within and only from such amounts made
21 available for school operations shall be available for the
22 transitional costs of initial administrative cost grants to
23 grantees that enter into grants for the operation on or
24 after July 1, 2007, of Bureau-operated schools: *Provided*
25 *further*, That any forestry funds allocated to a tribe which

1 remain unobligated as of September 30, 2009, may be
2 transferred during fiscal year 2010 to an Indian forest
3 land assistance account established for the benefit of the
4 holder of the funds within the tribe's trust fund account:
5 *Provided further*, That any such unobligated balances not
6 so transferred shall expire on September 30, 2010.

7 CONSTRUCTION

8 (INCLUDING RESCISSION OF FUNDS)

9 For construction, repair, improvement, and maintenance of irrigation and power systems, buildings, utilities,
10 and other facilities, including architectural and engineering services by contract; acquisition of lands, and interests
11 in lands; and preparation of lands for farming, and for
12 construction of the Navajo Indian Irrigation Project pursuant to Public Law 87-483, \$182,812,000, to remain
13 available until expended: *Provided*, That such amounts as
14 may be available for the construction of the Navajo Indian
15 Irrigation Project may be transferred to the Bureau of
16 Reclamation: *Provided further*, That not to exceed 6 per-
17 cent of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may
18 be used to cover the road program management costs of
19 the Bureau: *Provided further*, That any funds provided for
20 the Safety of Dams program pursuant to 25 U.S.C. 13
21 shall be made available on a nonreimbursable basis: *Pro-*
22 *vided further*, That for fiscal year 2008, in implementing

1 new construction or facilities improvement and repair
2 project grants in excess of \$100,000 that are provided to
3 grant schools under Public Law 100–297, as amended, the
4 Secretary of the Interior shall use the Administrative and
5 Audit Requirements and Cost Principles for Assistance
6 Programs contained in 43 CFR part 12 as the regulatory
7 requirements: *Provided further*, That such grants shall not
8 be subject to section 12.61 of 43 CFR; the Secretary and
9 the grantee shall negotiate and determine a schedule of
10 payments for the work to be performed: *Provided further*,
11 That in considering applications, the Secretary shall con-
12 sider whether such grantee would be deficient in assuring
13 that the construction projects conform to applicable build-
14 ing standards and codes and Federal, tribal, or State
15 health and safety standards as required by 25 U.S.C.
16 2005(b), with respect to organizational and financial man-
17 agement capabilities: *Provided further*, That if the Sec-
18 retary declines an application, the Secretary shall follow
19 the requirements contained in 25 U.S.C. 2504(f): *Provided*
20 *further*, That any disputes between the Secretary and any
21 grantee concerning a grant shall be subject to the disputes
22 provision in 25 U.S.C. 2507(e): *Provided further*, That in
23 order to ensure timely completion of replacement school
24 construction projects, the Secretary may assume control
25 of a project and all funds related to the project, if, within

1 eighteen months of the date of enactment of this Act, any
 2 grantee receiving funds appropriated in this Act or in any
 3 prior Act, has not completed the planning and design
 4 phase of the project and commenced construction of the
 5 replacement school: *Provided further*, That this Appropria-
 6 tion may be reimbursed from the Office of the Special
 7 Trustee for American Indians Appropriation for the ap-
 8 propriate share of construction costs for space expansion
 9 needed in agency offices to meet trust reform implementa-
 10 tion.

11 Of the funds made available under this heading in
 12 Public Law 108-447 for the tribal school demonstration
 13 program, \$3,800,000 of unobligated elementary school
 14 funding are rescinded.

15 INDIAN LAND AND WATER CLAIM SETTLEMENTS AND
 16 MISCELLANEOUS PAYMENTS TO INDIANS

17 For payments and necessary administrative expenses
 18 for implementation of Indian land and water claim settle-
 19 ments pursuant to Public Laws 99-264, 100-580, 101-
 20 618, 107-331, 108-477, 109-379, 109-429, and 109-
 21 479, and for implementation of other land and water
 22 rights settlements, \$34,069,000, to remain available until
 23 expended.

24 INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

25 For the cost of guaranteed and insured loans,
 26 \$6,276,000, of which \$700,000 is for administrative ex-

1 penses, as authorized by the Indian Financing Act of
2 1974, as amended: *Provided*, That such costs, including
3 the cost of modifying such loans, shall be as defined in
4 section 502 of the Congressional Budget Act of 1974: *Pro-*
5 *vided further*, That these funds are available to subsidize
6 total loan principal, any part of which is to be guaranteed,
7 not to exceed \$85,506,098.

8 ADMINISTRATIVE PROVISIONS

9 The Bureau of Indian Affairs may carry out the oper-
10 ation of Indian programs by direct expenditure, contracts,
11 cooperative agreements, compacts and grants, either di-
12 rectly or in cooperation with States and other organiza-
13 tions.

14 Notwithstanding 25 U.S.C. 15, the Bureau of Indian
15 Affairs may contract for services in support of the man-
16 agement, operation, and maintenance of the Power Divi-
17 sion of the San Carlos Irrigation Project.

18 Appropriations for the Bureau of Indian Affairs (ex-
19 cept the revolving fund for loans, the Indian loan guar-
20 antee and insurance fund, and the Indian Guaranteed
21 Loan Program account) shall be available for expenses of
22 exhibits, and purchase and replacement of passenger
23 motor vehicles.

24 Notwithstanding any other provision of law, no funds
25 available to the Bureau of Indian Affairs for central office
26 oversight and Executive Direction and Administrative

1 Services (except executive direction and administrative
2 services funding for Tribal Priority Allocations and re-
3 gional offices) shall be available for tribal contracts,
4 grants, compacts, or cooperative agreements with the Bu-
5 reau of Indian Affairs under the provisions of the Indian
6 Self-Determination Act or the Tribal Self-Governance Act
7 of 1994 (Public Law 103-413).

8 In the event any federally recognized tribe returns ap-
9 propriations made available by this Act to the Bureau of
10 Indian Affairs, this action shall not diminish the Federal
11 Government's trust responsibility to that tribe, or the gov-
12 ernment-to-government relationship between the United
13 States and that tribe, or that tribe's ability to access fu-
14 ture appropriations.

15 Notwithstanding any other provision of law, no funds
16 available to the Bureau, other than the amounts provided
17 herein for assistance to public schools under 25 U.S.C.
18 452 et seq., shall be available to support the operation of
19 any elementary or secondary school in the State of Alaska.

20 Appropriations made available in this or any other
21 Act for schools funded by the Bureau shall be available
22 only to the schools in the Bureau school system as of Sep-
23 tember 1, 1996. No funds available to the Bureau shall
24 be used to support expanded grades for any school or dor-
25 mitory beyond the grade structure in place or approved

1 by the Secretary of the Interior at each school in the Bu-
2 reau school system as of October 1, 1995. Funds made
3 available under this Act may not be used to establish a
4 charter school at a Bureau-funded school (as that term
5 is defined in section 1146 of the Education Amendments
6 of 1978 (25 U.S.C. 2026)), except that a charter school
7 that is in existence on the date of the enactment of this
8 Act and that has operated at a Bureau-funded school be-
9 fore September 1, 1999, may continue to operate during
10 that period, but only if the charter school pays to the Bu-
11 reau a pro rata share of funds to reimburse the Bureau
12 for the use of the real and personal property (including
13 buses and vans), the funds of the charter school are kept
14 separate and apart from Bureau funds, and the Bureau
15 does not assume any obligation for charter school pro-
16 grams of the State in which the school is located if the
17 charter school loses such funding. Employees of Bureau-
18 funded schools sharing a campus with a charter school and
19 performing functions related to the charter school's oper-
20 ation and employees of a charter school shall not be treat-
21 ed as Federal employees for purposes of chapter 171 of
22 title 28, United States Code.

23 Notwithstanding 25 U.S.C. 2007(d), and imple-
24 menting regulations, the funds reserved from the Indian
25 Student Equalization Program to meet emergencies and

1 unforeseen contingencies affecting education programs ap-
 2 propriated herein and in Public Law 109–54 may be used
 3 for costs associated with significant student enrollment in-
 4 creases at Bureau-funded schools during the relevant
 5 school year.

6 Notwithstanding any other provision of law, including
 7 section 113 of title I of appendix C of Public Law 106–
 8 113, if in fiscal year 2003 or 2004 a grantee received indi-
 9 rect and administrative costs pursuant to a distribution
 10 formula based on section 5(f) of Public Law 101–301, the
 11 Secretary shall continue to distribute indirect and admin-
 12 istrative cost funds to such grantee using the section 5(f)
 13 distribution formula.

14 DEPARTMENTAL OFFICES

15 OFFICE OF THE SECRETARY

16 SALARIES AND EXPENSES

17 For necessary expenses for management of the De-
 18 partment of the Interior, \$102,151,000; of which not to
 19 exceed \$15,000 may be for official reception and represen-
 20 tation expenses; of which \$1,000,000, to remain available
 21 until expended, is for salaries, expenses, and costs for con-
 22 struction design of the Dwight D. Eisenhower Memorial
 23 Commission established by section 8162(b) of the Depart-
 24 ment of Defense Appropriations Act, 2000 (40 U.S.C.
 25 8903 note; Public Law 106–79); and of which up to

